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## **MONDAY, OCTOBER 12, 2009**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

### **COUNTY OFFICES CLOSED – COLUMBUS DAY**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 13, 2009.

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## **TUESDAY, OCTOBER 13, 2009**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

**Chairman Lauman opened public comment on matters within the Commissions' Jurisdiction, no one present to speak.**

Roger Sullivan, Attorney representing Flathead Lake Protection Association and Bruce Young stated that he came to offer public comment in regards to a lawsuit which soon will be resolved regarding Eagle's Crest Subdivision, Phases 5-9 that the developer is asking be revoked through formal action. Sullivan stated this particular subdivision involves 1,350 acres of land one mile south of Lakeside on steep slopes and calls for the construction of over 900 primary dwelling units, guest homes, commercial development units and a golf course, and could be accurately described as a small city on the steep hills south of Lakeside. Preliminary plat approval was given by the commissioners in November of 2007 by a 2-1 vote and within 30 days of the approval the Flathead Lake Protection Association whom he represents together with Bruce Young and another individual filed suit against the Board of Commissioners. The grounds for the suit were numerous and included problems with the process that occurred with the approval as well as more substantive issues. The reason I am taking the opportunity to speak to you today is because I feel there are some important lessons that can be learned from this. If I didn't believe that I would say we have prevailed once again against the Board of Commissioners as I can honestly say I always do. Over the course of the years each and every instance when I challenged a subdivision I only challenged those that had substantially serious defects or other land decisions including rezoning within the community of Lakeside. The problem it seems is one that can be addressed through both the political process and through consideration of good public policy. The fundamental purpose of the Subdivision Act is basically set up on three legs of a stool and has to do with the requirement of mandatory disclosure of information by the developer; so a discrete list of information has to be disclosed. The purposes for disclosures are several; so the public can meaningfully participate in the process as to whether or not to approve and if approved what conditions should be attached. Also to ensure that through the integrity of the process that all the information is submitted and the public has the opportunity to participate in a meaningful way because all the information has been submitted, and the commissioners too are in a position to make an informed decision that meets the purpose of the Subdivision Act that protects the public health safety and welfare by requiring the disclosure of information for consideration such as water quality both surface and sub-surface water, wildlife impacts and community impacts and especially highway traffic safety with 1,000 new dwelling units on a steep hillside south of Lakeside, where you will literally have thousands of additional vehicles entering highway 93 which creates safety considerations. It is also an important wildlife habitat area with less than one half of the eastern boundary being less than one half mile from the shores of Flathead Lake. As a result there were a number of comments entered into the record that were handled incorrectly in this particular proceeding with the Montana Department of Fish Wildlife and Parks stating it is too dense to put this kind of urban density on a steep hillside south of Lakeside. The University of Montana's Flathead Biological Station issued a letter stating there would be inevitable decline to water quality in Flathead Lake because of the enormous amount of increase in stormwater runoff from the level of development. They had a number of other comments entered into record that were not reflected in terms of the ultimate decision made with the developer basically in this instance getting what he asked for with the public and public agencies concerns not being reflected in the decision. Reluctantly with resolve Flathead Lake Protection Association filed suit once again. His 80 page brief pointing out the problems was filed a number of months ago, and at the developers request they were given a number of months to respond and right before their brief was due their counsel Kalvig & LeDuc Law Firm withdrew from the case. Flathead County Attorney's Office filed their reply as required on September 25, 2009 and on your behalf the County Attorney's Office took the position as follows:

In light of the recent decision of the Montana Supreme Court the Citizens for Responsible Development vs the Board of County Commissioners in Sanders County concerning the required contents of an application for preliminary approval of a subdivision and the accompanying environmental assessment in the manner in which the information was provided in the proceedings involved in this case, Defendant Board of Commissioners is not prepared to oppose the Plaintiffs motion for Summary Judgment.

**TUESDAY, OCTOBER 13, 2009**  
(Continued)

This Supreme Court case that came out earlier this summer basically determined just what was said in regards to mandatory disclosure requirements: i.e., water quality, geology, ground water, wildlife, sewage treatment, water supplies and stormwater drainage, so the information is available for the public and so you can participate in a meaningful way and make an informed decision. As you can see once again this took my review of literally thousands of pages of documents and I had to identify the legalities of it. We filed suit and identified the critical failures and we have achieved what he feels is a good result; not only for the client (Flathead Lake Protection Association) who is a non-profit entity whose purpose involves preserving and enhancing the quality of Flathead Lake and the communities that surround Flathead Lake. It isn't about any profit motives; it's about protecting the lake. Once again I will be going before District Court requesting an award of attorney fees. As you have done before when there have been failures that to some large extent can be laid at the door step of the developer the Flathead County Board of Commissioners through the public ends up having to pay attorney fees which is not good public policy, and what I am concerned about is that we not have a repeat performance. I think it is fair to say that none of this is a mystery that I have an eight page dissertation on the problems with this particular case. It is plain and simple the developer after submitting his initial application and initial environmental assessment was allowed over a six month period of time on 11 separate occasions to supplement the record. So they created this really unmanageable file for the public to even understand let alone the commissioners. What has happened it seems is that the integrity of the whole process is compromised and when that approach happens the problem is one that you need to solve because you are in charge. The Planning Department you have right now is among the most educated in terms of professional planning and in terms of their capability and in terms of the work ethic they bring to the department is enormous and invaluable. In a number of instances, not all -- your professional planning staff has written objective staff reports to you that have laid out a host of the same concerns that are ultimately reflected when we come back around and file suit. In a number of those instances I literally just quote from the staff report that was prepared for your review. Likewise with the County Attorney's Office you have a very talented County Attorney's Office and are lucky it seems to have the quality of people you have and in a number of instances, not all -- again the Board of Commissioners has chosen not to take the advice of the professional staff. What happens instead is that you end up as a practical matter with a revolving door with the developer going in and out of the Planning Office with numerous documentations; then you have a staff report come out with an enormous amount of supplemental filings by the developer. The result is you end up undermining the process of the three legs to the stool. It seems we have a situation where it is up to the captains of the ship sitting here to make sure that your professional staff has the support from the top down in order to do the jobs they are hired to do. As it sits right now you are aware of the accusations against your Planning Department that we have read about in the newspaper over the course of the past number of weeks; above and beyond that I would characterize that attack on the integrity of the Planning Department as a structural problem that has been going on for a number of years; so instead of Flathead County taxpayers being able to take advantage of the staff you have hired and paid a considerable amount of money to, the value of their advice has been undermined by the policies and procedures that occur there in terms of the Planning Department being leveraged/ pressured having this revolving door that undermines the public participation process. This particular subdivision provides a microcosm of a lot of the problems that exist within planning in Flathead County, and I think the commissioners are the ones that need to solve the problem; that involves actually enforcing the Flathead County Subdivision Regulations when a developer comes in. In this instance this particular subdivision is going to not only cost the county an enormous amount of staff time already invested in it, but attorney fees as well to pay for having to get the county to agree the subdivision is illegal. The developer has also devoted a substantial amount of money to this undertaking. A lot of the problem with it does also stem with the developer that needs to realize that they didn't provide all the information clearly mandated in the regulations. Sullivan concluded with saying on behalf of the Flathead Lake Protection Association and his clients that they stand prepared to engage with Flathead County in legitimate participation in any further process that is intended to Eagle's Crest Subdivision, and they look forward to having a collaborative process with the developer and Planning Staff with results that not only have the characteristics of environmental integrity considering where it is and comes up with a density of development that is not urban, but that actually makes sense in that setting and that makes sense for preserving the quality of life in the community of Lakeside. We are not opposed to development or moving forward so long as it is done in a matter within the confines of the law.

**No one else rising to speak, Chairman Lauman closed the public comment period.**

**MONTHLY MEETING W/ JAY SCOTT, FAIRGROUNDS**

9:08:01 AM

Members present:

Chairman Dale W. Lauman

Commissioner Joseph D. Brennehan

Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Fair Director Jay Scott, Clerk Kile

Jay Scott reported they have been extremely busy at the Fairgrounds having just held the gun show and ski swap. He then explained the Fire Marshall has suggested some changes at the Fairgrounds in regards to parking near fire hydrants during events.

Discussion was held relative to race horse personnel being pleased with how things are presently going.

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(Continued)

**CONSIDERATION OF EXTENSION REQUEST: BUFFALO MOUNTAIN, PHASE 2**

[9:17:38 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Assistant Planning & Zoning Director B J Grieve, Clerk Kile

Discussion was held relative to Buffalo Mountain, Phase 1 in regards to infrastructure improvements which Grieve explained is not relevant to Phase 2.

Chairman Lauman clarified the extension would run through December 26, 2010.

Commissioner Brenneman made a **motion** to grant an extension to Buffalo Mountain, Phase 2. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: TITLE III MODIFICATION/ AOA**

[9:24:42 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Dupont made a **motion** to approve the Title III modification contract with AOA and authorized the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**MONTHLY MEETING W/ LAURIE REBUCK, JUVENILE DETENTION CENTER**

[9:34:46 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Juvenile Detention Director Laurie Rebuck, Clerk Kile

Laurie Rebuck reported things have been uneventful and slow with a steady population count of between six and eight.

**BI-MONTHLY MEETING W/ KAROLE SOMMERFIELD, 4-H OFFICE**

[10:00:46 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, 4-H Director Karole Sommerfield, MSU Extension Agent Pat McGlynn, Clerk Kile

Karole Sommerfield reported the 4-H side of the fair went very well this year. She then presented the following statistics for the livestock sale which she stated went well considering the state of the economy: average beef price \$3.00, average hogs \$3.46, average lambs \$6.00. It was then reported the supplemental nutrition assistance program which is funded by a federal grant to educate first, third and fifth graders in nutrition passed their federal review. Sommerfield then encouraged the commission to attend the Annual 4-H Leadership Banquet at the Stillwater Grange on November 13, 2009.

Pat McGlynn reviewed four different grant proposals she is presently working on totaling \$375,000. She then reported she attended the Annual Ag Conference in Portland and wrapped up the Master Gardener class for 2009. McGlynn then noted a microscope was donated by FVCC which will be very helpful for identifying insects. She then spoke about attending training held by the Montana Department of Agriculture in regards to a pesticide website and stated 134 pounds have been harvested out of the Courthouse garden with potatoes, beets and carrots still in the ground.

TUESDAY, OCTOBER 13, 2009  
(Continued)

**DOCUMENT FOR SIGNATURE: HAVRE AND SALISH-KOOTENAI BUS LEASES/ EAGLE TRANSIT**

[10:21:06 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Wes Hula, Clerk Kile

Wes Hula explained the Havre lease is the only document ready to be signed today.

Commissioner Brenneman made a **motion** to approve the Havre Eagle Transit bus lease contract and authorized the chairman to sign. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**CONSIDERATION OF PRINTING BIDS: SHERIFF'S OFFICE**

[10:24:38 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Dupont made a **motion** to approve the print bid from Insty Prints for 11 sets of 500 standard business cards for the Sheriff's Office for \$258.80. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the print bid from Great Northern Printing for 200 court activity children's coloring books for the Sheriff's Office for \$404.04. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**MONTHLY MEETING W/ CINDY MULLANEY, OES AND LINCOLN CHUTE, FIRE SERVICES AREA MANAGER**

[10:30:50 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Deputy Director OES Cindy Mullaney, Fire Services Area Manager Lincoln Chute, EMS Manager Tim Soule, Clerk Kile

Mullaney spoke about the Stafford Act which was amended after Hurricane Katrina that now requires them to include in their Emergency Operations Plan provisions in regards to pets and livestock. She then reported a GAP analysis training was held in Missoula in regards to jurisdictions for emergency management. Mullaney then spoke about a contract they would be receiving from the State of Montana, Department of Military Affairs that will allow them to do updates on their Emergency Operations Plan. She then noted the county will end up paying approximately \$30,000 to 70 people for the Baldy Fire in Lakeside.

Chute spoke about the needed requirement of having responders have their equipment signed up for liability reasons.

Discussion was then held relative to putting together a check-list of things that need to be done on the counties side and fire team's side to resolve finance issues.

Chute then spoke about starting a job share in regards to fire prevention which years ago several people worked on. He noted the prevention person could work on educating people of many things in regards to noticing. He then reported he has finished picking things up at the boat crash scene and reported a site was contained and cleaned up in Marion with a chip truck accident. Chute then stated open burning is going well and explained the merger with Hungry Horse and Martin City is on a permanent hold.

TUESDAY, OCTOBER 13, 2009  
(Continued)

**MEETING W/ DALE MCGARVEY RE: LAND APPRAISALS IN FLATHEAD COUNTY**

[11:00:55 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman  
Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Dale McGarvey, Clerk Kile

McGarvey said he has filed 12 separate appeals for an informal hearing. He then stated he has always felt that the very best government was local government and as you get further up the chain there is more of a break down in communication. He then reviewed the Taxpayers Bill of Rights:

- Subsection 1: The taxpayer has the right to record any interview, meeting, or conference with auditors or any other representatives of the department.
- Subsection 6: The taxpayer has the right to a complete and accurate written description of the basis for any additional tax assessed by the department.

McGarvey stated he has asked the Department of Revenue to furnish him with a complete and accurate written description of the basis of the additional tax and if the basis of the additional tax include comparable sales then for each sale and the description of the property. He asked that this be confirmed in writing as soon as they received it and told them that he expected them to honor MCA Section 15-1-222. The problem is that upon investigation he finds that the confidentially agreement is in their affidavit and the agreement requires that you sign an affidavit that under the penalty of law you will not disclose until your hearing which is totally in opposition to laws of discovery in the State of Montana. Anytime you have a dispute there is nothing that helps more than to find out what the facts are on either side of the case. This idea that you can't disclose anything until your at the hearing itself is totally contradicting of the law. In general parties may obtain discovery regarding any matter not a privilege which is relevant to the subject matter involved in pending action whether it relates to the claim or defense of the party seeking discovery. He stated this is the law and the Department of Revenue should follow the law. McGarvey then reviewed examples of comparable properties bought, sold and developed. He said he is asking for help in if there is not a disclosure so that they can come to grips with this, then their family will have no option but to pay their taxes under protest and there may be other taxpayers in the same situation. What we will have is a situation where a lot of money is tied up that nobody can get which is the last thing Flathead County needs. The Taxpayer's Bill of Rights that was read is so clear and states that if statute isn't complied with that says specifically if the state wants to increase the taxes they have to disclose a complete explanation why. This discovery situation is critical for preparation of your case; that you would need to know what it is all about before the formal hearing is held. If you can't have discovery before the hearing and have to keep the results to yourself then you haven't gotten a fair trial. He noted he contacted the DOR and attached a copy of the Taxpayer's Bill of Rights and told them he objected to the affidavit and requested that the form be changed. He explained he did receive a response back today where they said the affidavit is wrong.

Chairman Lauman stated he sees and understands the problem and advised Mr. McGarvey to let them know whether the state was willing to correct the affidavit.

**TAKE ACTION: COTTONWOOD ESTATES**

[11:47:01 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman

Members absent:

Commissioner James R. Dupont

Others present:

Planning & Zoning Director Jeff Harris, Clerk Kile

Harris explained the developers of Cottonwood Estates came before the commission several months ago and asked that conditions be modified. He noted they are still unable to meet the conditions.

Chairman Lauman read into the record that Cottonwood Estates is a dead file and will not proceed to final plat.

**TAKE ACTION: DANCING CRANE PONDS #2**

[11:50:34 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman

Members absent:

Commissioner James R. Dupont

Others present:

Planning & Zoning Director Jeff Harris, Clerk Kile

Chairman Lauman read into the record Dancing Crane Ponds #2 is a dead file and will not proceed to final plat.



TUESDAY, OCTOBER 13, 2009  
(Continued)

**RATIFICATION OF WITHDRAWAL AND VACATION OF EAGLE CREST SUBDIVISION PRELIMINARY APPROVAL**

[11:45:57 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner Joseph D. Brenneman

Members absent:

Commissioner James R. Dupont

Others present:

Deputy County Attorney Jonathan Smith, Planning & Zoning Director Jeff Harris, Bruce Young, Linda Ranes, Clerk Kile

Smith explained Strategic Land Development Corporation with Trevor Schaffer has withdrawn their application for preliminary approval and have recognized the plat is vacated.

Commissioner Brenneman questioned what would happen if they choose not to vacate it.

Smith said you are the final decision maker at the county level; the Planning Staff has already marked it vacated but as the governing body the County Commissioners should ratify the vacation so everyone knows that it has been vacated officially by the county.

Commissioner Brenneman asked if this is an acceptable practice that a developer can at any point withdraw a development.

Harris stated that it has happened before; not all that often but on occasion.

Commissioner Brenneman made a **motion** to ratify with the understanding that Eagle Crest Subdivision, Phases 5-9 has been vacated. Chairman Lauman **seconded** the motion. **Aye** – Lauman and Brenneman. Motion carried by quorum.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 14, 2009.

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**WEDNESDAY, OCTOBER 14, 2009**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

**11:00 a.m. County Attorney meeting @ Co. Atty's Office**  
**1:15 p.m. 911 Board meeting @ OES Conference Room**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 15, 2009.

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**THURSDAY, OCTOBER 15, 2009**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

**Chairman Lauman opened public comment on matters within the Commissions' Jurisdiction.**

Greg Carter stated he came to make a request in regards to Haskill Mountain Ranch which received preliminary plat approval two years ago for 74 lots on 530 acres of land. Shortly after preliminary plat approval they closed on the parcel with a group from Florida and then a group formed called the Kila Coalition that filed suit against Flathead County. The Kila Coalition group prevailed and the plat was set aside. He then stated the group from Florida called Florida Flathead Properties came back and re-platted the property. Kila Coalition filed another suit against the county; however, this time they have not served the suit. After that happened the group from Florida contacted them and asked them if they would consider coming to Washington DC to visit with their congressman who was also good friends with Congressman Rehberg. In May they met with Congressman Rehberg and his staff and Congressman Miller from the Northern District of Florida and the thought that was put to them was, "would you be willing to work with the government to put this land back into the hands of the National Forest Service". It would actually be a purchase by the government. They laid out a strategy for them to follow and they met with the National Forest Service and talked to them about that happening; not just on the 530 acres but on 2,130 acres that they own, for a total of 2,660 acres. The Forest Service responded last month with a letter from Kathy Barbouletos that said:

Because of the proximity to existing National Forest Service lands its location within the congressionally proclaimed boundaries the mountainous forest nature, and the benefits it would offer to local wildlife this property would make a reasonable addition to what they call the island unit of the Flathead National Forest. While the property is not a candidate for an LWCF purchase it appears it would make a reasonable addition to the Flathead National Forest and pending a hazardous materials clearance, I would support including these lands in the National Forest system if the opportunity presents itself.

**THURSDAY, OCTOBER 15, 2009  
(Continued)**

Carter said after the letter was received from the Forest Service Congressman Rehberg's Office asked them to work with the Montana Association of Land Trust who asked them to approach the county to see if it would be possible for the property to move into government control; because it would be taking the property off the county tax coffers. It was noted in the most recent re-assessment the property went down in value, so considering it from the standpoint of potentially fighting another lawsuit or allowing the land to go back to the government they have asked for something in writing from the county. Carter then asked that the commission consider signing a letter to be sent on to Congressman Rehberg's Office in regards to the land being taken off the tax rolls of Flathead County.

**No one else rising to speak, Chairman Lauman closed the public comment period.**

**PUBLIC HEARING: ROAD NAME APPEAL/ HOWLING PLACE**

[9:30:11 AM](#)

Members present:

Chairman Dale W. Lauman

Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Addressing Coordinator Sara Wilkinson, Plat Room Lucie Foster, GIS Ron Schlagenhauser, John Fox, Don Missman, Clerk Kile

Wilkinson reviewed the balloting record for the appeal of the road name Howling Place. She reported the road was balloted on June 3, 2009 and several votes were received back, but most were invalid; two were received for Timberline Road which is already a road name so was not counted, and one was received for Howling Place and one for Power Line Road. Howling Place and Power Line Road were the only valid votes, so by drawing it was named Howling Place. Wilkinson stated letters were sent out naming the road and as a result several protests were received.

**Chairman Lauman opened the public hearing to anyone wishing to speak in favor or opposition of the road name.**

John Fox, 801 Blacktail Road commented that Power Line Road would have been fine as a road name. He then said that he spoke to Steve Maas and Steven Bozek who came up with names and Norm Brewer didn't care what it was named. He then stated that he felt Timberline Road was going to go through until he got the paperwork that said it was named Howling Place which no one really likes. Fox said after talking with neighbors they came up with Muley Road and are not happy that Norm didn't talk to them about naming the road Howling Place, when he was the guy that said he didn't care what it was named.

Don Missman, 863 Blacktail Road said he has the same feelings as John Fox in that the road name should be changed.

**No one else rising to speak, Chairman Lauman closed the public hearing.**

Sara Wilkinson said Muley Road would be appropriate.

Commissioner Dupont made a **motion** to change the road name to Muley Road with Resolution 2225. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

RESOLUTION NO. 2225

WHEREAS, Flathead County has proposed to name a private road generally running northerly off Blacktail Road and located in the NW¼ of Section 13, Township 26 North, Range 21 West, P.M.M., Flathead County, Montana.

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on October 15th, 2009 concerning the proposal, after publication and mailing of notice thereof on September 28th and October 5th, 2009, and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named Muley Road.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running northerly off Blacktail Road and located in the NW¼ of Section 13, Township 26 North, Range 21 West, P.M.M., Flathead County, Montana, should be, and it hereby is, named Muley Road.

BE IT FURTHER RESOLVED that the naming of Muley Road shall be effective on October 15th, 2009.

Dated this 15th day of October, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Dale W. Lauman  
Dale W. Lauman, Chairman

By/s/Absent  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/James R. Dupont  
James R. Dupont

By/s/Diana Kile  
Diana Kile, Deputy

THURSDAY, OCTOBER 15, 2009  
(Continued)

**PUBLIC HEARING CONSIDERATION OF ADOPTION OF RESOLUTION: LEVY & ASSESSMENT/ RSID #147**

[10:00:12 AM](#)

Members present:

Chairman Dale W. Lauman

Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Deputy County Attorney Tara Fugina, Sam Leighty, Sandy Leighty, Diana Leighty, Marc Leighty, Terry Leighty, LeRoy Stevens, Bill Hunger, Tom Gorton, Noel Gorton, Greg Lukasik (via phone) Clerk Kile

Deputy County Attorney Tara Fugina reported several protests letters were received protesting the amount before the exact amount was determined and those letters were kept and made available for review. She then stated no additional protest letters were received protesting the amount of the RSID. As stated in the Resolution of Intent dated September 28, 2009 we are here today to determine whether or not the assessment of \$1,956.73 per parcel, lot or tract in the district is appropriate and should be levied against the property.

**Chairman Lauman opened the public hearing to anyone wishing to speak in favor or opposition of the assessment.**

Mark Leighty, owner of Fox Hill Estates questioned why the actual construction of the project changed totally with no base material being imported and no crushed matting other than 1 ½ inch crush. He said what was done out there isn't even close to what the bid was calling for.

Mike Pence said they hauled truck load after truck load of material.

Mark Leighty said it was 1 ½ inch crushed and not what the bid was for. He then asked how they would figure out the cost in comparison of what the bid was suppose to be for.

Mike Pence said they had to build it to the engineer's specs.

Mark Leighty said they didn't touch the base material at all.

Mike Pence further said no one contacted him in regards to this. He then stated often times they make adjustments but they have to be properly engineered.

Mark Leighty also said there were problems with portions of the ditches that they were told were not part of the bid.

Terry Leighty said they now can't get drainage out of their subdivision.

Mike Pence commented with issues like that they needed to contact Morrison & Maierle. He then said he did hear about issues in regards to surveys and elevations but was not involved in it.

Commissioner Dupont said basically we have an engineering design for the road and they will be required to meet those specs.

Mike Pence explained to Greg Lukasik (via phone) that a public hearing was being held in regards to Mennonite Church Road and citizens were asking questions that only the engineer could answer.

Mark Leighty questioned Greg Lukasik in regards to the change of base material that was used underneath the asphalt and stated 1 ½ inch crushed was used.

Greg Lukasik explained the contractor Knife River was given the option to use 3 inch minus or 1 ½ inch crushed and they choose to use 1 ½ inch crushed which was better material.

Mark Leighty asked if 1 ½ inch was better material than 3 inch minus with crushed on top of it.

Greg Lukasik said it was.

Mike Pence questioned the thickness and asked if it was built to specs.

Greg Lukasik said it was built as bid on.

Mark Leighty then asked about cleaning out the ditches.

Greg Lukasik said it would be done when the paving was completed. He then noted it needs to be 40 degrees and warming in order to pave and they are looking for a break in the weather to finish paving.

Mark Leighty then asked about some culverts.

Greg Lukasik stated they have already been put in and asked if there was concern.

Mark Leighty said farmers in the area had approaches that weren't on the list: Pat and Kenny Odegard and Dan and Sam Leighty.



**THURSDAY, OCTOBER 15, 2009**  
**(Continued)**

Greg Lukasik noted they did have culverts left over.

LeRoy Stevens questioned if the total assessment would be \$1,956.73 with the bonds sold at 4.75 percent.

Deputy County Attorney Tara Fugina explained the first two assessments due in November and May would be \$92.56 and are actually a little bit higher because of accrued interest from August until January.

LeRoy Stevens clarified that it would be on this year's taxes. He then asked what it would be on the following year's taxes.

Deputy County Attorney Tara Fugina said it would be re-adjusted at 4.75 percent plus the county has the option of adding ½ percent for administrative costs.

General discussion continued in regards to the administrative cost.

Noel Gorton, 578 Creston Road questioned the cost of the RSID in regards to the administrative fees.

General discussion continued in regards to the total of the RSID.

Noel Gorton then read MCA 7-12-2102 (2) which reads:

*The Board of County Commissioners may order and create a special improvement district upon the receipt of a petition to create a special improvement district that contains the consent of all of the owners of property to be included in the district.*

Noel Gorton then said she is confused as to how the district was even formed without the consent of all the owners of the property and asked that it be answered.

Deputy County Attorney Jonathan Smith said it is an alternative way to create an RSID. A petition of 100% of the people can create an RSID without a resolution of intent. Prior to that new statute being passed there is no requirement for a petition to create an RSID; the commission upon believing one should be created can create one. They then have to do a Resolution of Intent setting forth what the RSID will do, there is a protest period and if 50 percent protest they can't move forward. He then said that is an alternative way to do this not the only method. He then explained how an RSID was formed on Big Mountain and another south of Kalispell.

Noel Gorton then asked what the MCA Code was creation of them.

Deputy County Attorney Tara Fugina stated it was MCA 7-12-2102 (1). She then said you cited part 2.

Noel Gorton asked if that was for those that lived outside the city.

Deputy County Attorney Tara Fugina said that was part 3.

Noel Gorton then said the people that lived outside the development that signed waivers are having taxation without representation; no matter if they are for or against it no one is representing them prior to that because the district was formed in a way that didn't allow for there to be a vote greater than 50 percent in protest of the forming because of waivers signed. It seems unfair because we don't have representation. Do we?

Deputy County Attorney Tara Fugina said that is your opinion.

Noel Gorton said it doesn't appear that there was representation for property owners that were not in the subdivision that signed the waivers. She then stated she understands the concept of an RSID but was confused when Grayling Road was paved; that it would have been a perfect situation for an RSID, but Charles Lapp now has an IOU with the county for one year with no interest. We are paying interest on this RSID commencing in August for a service that hasn't been rendered to them yet and asked why they couldn't sign an IOU and have a year to work extra jobs to create more income to pay off the RSID in a lump sum. Gorton said she read in the minutes that an RSID is a good option for Mennonite Church Road because not all the residents in the county will use the road; that is true, but it is true for all the roads in Flathead County so I would expect to see any paving in the future to always be with an RSID. She then concluded with saying she is glad the commissioner terms are for six years.

Tom Gorton, 578 Creston Road stated on the proposed levy of special assessment it says the county adopted a resolution proposing a levy of special assessments against benefitting property. He then said he lives on Creston Road where his residence is; he owns property on Mennonite Church Road. In 2008 the Road Department approved oiling of Mennonite Church Road with magnesium chloride and excluded 4,480 feet for the reason that it didn't benefit the land owner on that section of the road. Gorton stated it didn't benefit him a year ago but now it benefits him and said he is protesting the RSID in the amount of \$1,900.00. I am willing to make it a proposal that the 600 feet that was oiled in front of his property he agrees with, but that is only one third of it.

Mike Pence explained the pilot program that involved applied magnesium chloride to the road.

Tom Gorton said it does say against benefitted properties and obviously it wasn't benefitting me a year ago because no one lived on the road; so now asphalt benefits me and I still don't live on the road.

Discussion was held relative to protest amounts.

Deputy County Attorney Tara Fugina explained that everyone had a right to protest the amount; that there is not a threshold percentage of protests that would stop the commission from passing the levy.

THURSDAY, OCTOBER 15, 2009  
(Continued)

Mark Leighty then asked what good it does to protest.

Deputy County Attorney Tara Fugina said everyone has a right to come in and protest the amount in anyway.

Tom Gorton asked what the first protest was for.

Deputy County Attorney Tara Fugina said it was for creation of the RSID.

Discussion continued in regards to protests and waivers.

Deputy County Attorney Jonathan Smith explained the protest on the amount is if you think there is a mistake on your particular property that protesting it will make the commissioners look at it and determine if there is a mistake; it is not a way for each person to be able to say mine is wrong. There are several ways to assess and the law gives you that right to come in and protest the amount of your assessment if you think there is a mistake.

Tom Gorton stated he wanted it on record that he does protest his assessment. He further stated he is protesting that the RSID doesn't benefit his property; but that it is great to be out there without the dust. Gorton said he should be paying two-thirds less of the assessment of \$1,900.00. He then said he was curious as to why Creston Road will only have 40 feet of asphalt brought out instead of 200 feet.

LeRoy Stevens said they have all basically felt the same in that the county should take care of paving the whole road; yet considering the amount they are paying he feels it is a darn good deal for less than \$200.00 per year. He then stated he is tired of the dust and will feel more comfortable when kids are waiting for the school bus on a paved road. Stevens then encouraged the commission to follow through with the lawmakers in regards to late comers fees and asked that if at all possible it be made retro-active.

Bill Hunger, 615 Mennonite Church Road said he has been actively protesting the RSID since the beginning. He stated it is a joy to have the pavement with his house being right next to the road. He then went on to say there are a lot of people driving by that are enjoying the road as much as he is now too; yet it won't be affecting their pocketbook like it is his. He then asked that they consider how it has affected some of those on the road with the RSID assessment and their land tax bill that has gone quite higher and he is hearing stories (rumors perhaps) that the county is considering adding additional mills to the road budget and they will be paying that also. Hunger stated he would like consideration to be made by the commission for the position the residents living on Mennonite Church Road have been put in as they watch concrete and top soil trucks driving by that are using the road and not paying for it like they are.

**No one else rising to speak, Chairman Lauman closed the public hearing.**

Chairman Lauman said comments have been made that years ago the county paved a lot of roads which is true, but at that time they were receiving Forest Service receipts off of timber harvests. As we all know that diminished and almost disappeared and we are not receiving those now, which is part of the reason the county does not have the funds that it had years ago to pave roads. Lauman stated we are looking at different ways to address those issues and have talked to senators in regards to sponsoring legislation to address late comer's fees. He further stated that he feels this came in at a reasonable price and understands people live on thru county roads that are not dead end roads, and trying to find equitable ways to address dust issues is really difficult.

Commissioner Dupont said no one wants their taxes to increase yet people want more services and there isn't enough money in the till for everything wanted. He noted this was a joint effort started by residents living on Mennonite Church Road. Dupont stated dust is a big issue that needs to be addressed and they do need to find other resources for money which they don't have right now. He further stated he totally agrees with the later comer's fee assessment which they are trying to get legislators to carry. He then added looking at the price of a short section of oil costs more overall per year where he lives and understands it may be a burden but feels overall it is a good proposal.

Commissioner Dupont made a **motion** to adopt Resolution 2210F: Final Levy of Special Assessment on Property within the District for the Purpose of Financing the Cost of Certain Local Improvements. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

CERTIFICATE AS TO RESOLUTION

I, the undersigned, being the duly qualified and acting recording officer of the County of Flathead, Montana (the "County"), hereby certify that the attached resolution is a true copy of Resolution No. 2210 F, entitled: "RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 147; FINAL LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS" (the "Resolution"), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of County Commissioners of the County at a meeting on October 15, 2009, and that the meeting was duly held by the Board of County Commissioners and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Commissioners voted in favor thereof: Chairman Lauman & Commissioner Dupont; voted against the same: \_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_; or were absent: \_\_\_\_\_.

Commissioner Brenneman.

WITNESS my hand officially this 15<sup>th</sup> day of October, 2009.



Paula Robinson  
Flathead County Clerk and Recorder

By/s/Diana Kile  
Deputy

THURSDAY, OCTOBER 15, 2009  
(Continued)

RESOLUTION NO. 2210 F

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 147; FINAL  
LEVY OF SPECIAL ASSESSMENTS ON PROPERTY WITHIN THE DISTRICT FOR THE  
PURPOSE OF FINANCING THE COST OF CERTAIN LOCAL IMPROVEMENTS

BE IT RESOLVED by the Board of County Commissioners of the County of Flathead (the "County"), Montana, as follows:

Section 1. The District; the Improvements. The County has created a Rural Special improvement district (the "District") pursuant to under Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), denominated Rural Special Improvement District No. 147 (the "District"), and undertaken certain local improvements (the "Improvements") to benefit property located therein. The Improvements have been or, by the conclusion of the current construction season, will be substantially completed and the total costs of the Improvements to be paid with proceeds of the Bonds are estimated to be \$203,500.00, including all incidental costs.

Section 2. The Bonds. The County has pursuant to the Act issued its rural special improvement district bonds drawn on the District, denominated "Rural Special Improvement District No. 147 Bonds," in the original aggregate principal amount of \$203,500.00 (the "Bonds"), to finance costs, including incidental costs, of the Improvements. The Bonds are payable primarily from special assessments to be levied against property in the District.

Section 3. Method of Assessment. (a) Pursuant to Resolution No. 2210 A, adopted by this Board on June 16, 2009, which constitutes the resolution creating the District, this Board determined to levy special assessments to pay the costs of the Improvements on the basis therein provided as authorized by the Act.

(b) This Board hereby ratifies and confirms that the assessment of costs of the specific Improvements against the properties benefitted thereby as prescribed by the resolution are equitable and in proportion to and not exceeding the special benefits derived from the respective Improvements by the lots, tracts and parcels to be assessed therefor within the District, and the special assessments levied by this resolution are in accordance with the methods and do not exceed the amounts prescribed by the resolution.

Section 4. Public Hearing; Objections. This Board, on September 28, 2009, adopted Resolution No. 2210 E, pursuant to which this Board declared its intention to levy and assess the special assessments in the District. Notice of passage of the resolution was duly published and mailed in all respects in accordance with law, and on October 15, 2009, this Board conducted a public hearing on the levying and assessment of the special assessments.

This Board has considered the objections, if any, submitted to the proposed assessments and other comments made at the public hearing. This Board has determined not to modify any of the special assessments appearing in the proposed assessment roll attached as Exhibit A to Resolution No. 2210 E.

Section 5. Final Levy of Assessments. The special assessments for the costs of the Improvements shall be levied and assessed against properties in the District in accordance with the method of assessments referred to in Section 3. Such assessments shall be payable over a term not exceeding 20 years, each in substantially equal semiannual payments of principal and interest. Property owners shall have the right to prepay the special assessments as provided by law.

The special assessments shall bear interest from August 31, 2009, until paid at an annual rate equal to the Interest Rate (as hereinafter defined), as such may change from time to time, plus penalties and interest for delinquent installments as provided by law. As used herein, "Interest Rate" means, as of the date of determination, the sum of (i) the average interest rate payable on the Bonds then outstanding, plus (ii) one-half of one percent (0.50%) per annum. The Interest Rate shall be determined in August of each fiscal year so long as any Bonds are outstanding and shall apply to the outstanding installments of the special assessments not delinquent. If no Bonds are outstanding, but special assessments remain unpaid and are not delinquent, the Interest Rate shall be equal to the Interest Rate as most recently determined. The initial Interest Rate for the fiscal year ending June 30, 2010, shall be 4.75 % per annum.

The special assessments shall be levied against the lots, tracts and parcels in the respective amounts listed on Exhibit A to this resolution (which is hereby incorporated herein and made a part hereof). Exhibit A contains a description of each lot, tract or parcel of land to be assessed, the name of the owner, if known, the total amount of the special assessment levied against each lot, tract or parcel, the amount of each partial payment of the special assessment, and the day when each such partial payment shall become delinquent.

Section 6. Certification of Assessments. A copy of this resolution, including Exhibit A hereto, certified by the County Clerk and Recorder shall be delivered to the County Treasurer within two days after the adoption hereof.

Section 7. Further Actions. Officers of the County are further authorized and directed to take all actions as may be required by law to assure that the special assessments levied by this resolution are duly certified, assessed and collected in accordance with law.

ADOPTED by the Board of County Commissioners of the County of Flathead, Montana, this 15<sup>th</sup> day of October, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Dale W. Lauman  
Dale W. Lauman, Chairman

ATTEST:  
Paula Robinson, Clerk

By/s/Absent  
Joseph D. Brenneman, Member

By/s/Diana Kile  
Diana Kile, Deputy

By/s/James R. Dupont  
James R. Dupont, Member

**THURSDAY, OCTOBER 15, 2009**  
**(Continued)**

**Exhibit "A" -- Assessment Roll**

LOT/TRACT/PARCEL ID	ASSRNO	OWNER	Total Assessment	11/30/09 Payment*	05/31/10 Payment*
2820X03-PHS-1	0001658	TONJUM, BRITT D & DULCIE L	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-PHS-2	0002358	WALLACE, TODD D & STEPHANIE A	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-PHS-3	0002359	HABEL, R ALAN & CINDY LU	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-PHS-4	0002360	CRAWFORD, CAROLYN R & MALINDA C	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-PHS-5	0002361	WEBER, KYLE C & SUSAN R	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-SBW-1	0003783	GREGG, JOHN STEPHEN & CAREY ORWIN	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-SBW-2	0003784	MOLVIK, DENNIS & ELIZABETH	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-XXX-1A	0972234	LEIGHTY, DIANA L & SAMUEL P	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-XXX-1B	0638310	LEIGHTY, DIANA L & SAMUEL P	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-XXX-1C	0492190	LEIGHTY, DIANA L & SAMUEL P	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-XXX-2	0896244	VEIGEL, LARRY D	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-XXX-2B	0001305	HUNGER, WILLIAM A & RIPLEY, JILL B	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-XXX-3	0283310	GESTRING, CHARLES E & JOAN M	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-BCJ-1	0535250	ROSS JR, ROBYN C & BRIAN J	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-BCJ-2	0501033	VOTAPKA, GARY & SUSAN	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-BCL-3	0501034	EVANS, RANDY JOE & VICKIE K	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-BCL-4	0501035	SIMONSON, KURT & RHONDA	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-BCL-5	0501036	LA COUR KRAMER, KENNETH	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-XXX-1	0723610	THOMAS PARKER & PATRICIA B. SEVIER	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-XXX-2A	0118400	MOLEN FAMILY TRUST	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-XXX-2AA	0118520	BAUER, JONATHON L & JEAN COLLETTE	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-XXX-2B	0118400	MOLEN FAMILY TRUST	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-XXX-2C	0795680	SKARE, ALLEN I & DAVID A	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-XXX-2D	0008962	CROFTS, STEVE E.	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-XXX-2DA	0011413	BENSON, RYAN A & LEIA T	\$1,956.73	\$ 92.56	\$ 92.56
2820X04-XXX-2DB	0011414	CROFTS, STEVE	\$1,956.73	\$ 92.56	\$ 92.56
2820X09-XXX-2D	0003677	GUERRERO, TERRY LYNN	\$1,956.73	\$ 92.56	\$ 92.56
2820X09-XXX-2E	0003678	GORTON, THOMAS R	\$1,956.73	\$ 92.56	\$ 92.56
2820X09-XXX-4	0160948	RUTH N BROEDER TRUST	\$1,956.73	\$ 92.56	\$ 92.56
2820X09-XXX-4A	0975814	JOHNSTON, SCOTT E & MARIE BYRD	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHA-7	0009756	FELDE, MICHAEL J & LINDA F	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHA-8	0009757	CORBETT, MICHAEL B & JAN E	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHA-9	0009758	STUEBEN, ROGER E	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-10	0009759	ADAMS, RONNETTE K	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-11	0009760	REYNOLDS, SHARON M	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-12	0009761	JACKSON, JERRY K & JEROME K	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-13	0009762	STRINGER III, LLEWELLYN W & KARA STRINGER	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-14	0009763	STUEBEN, ROGER E	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-15	0009764	THOMAS, JOHN L	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-16	0009765	PATE, DANIEL & MARY	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-17	0009766	SLOAN, AMBER L & BRIAN L	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-18	0009767	ERICKSON, ROBERT A & LISA A	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-19	0009768	PATE, DANIEL L & MARY	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-22	0009769	RISKA, JOE & ANGELITA	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-23	0009770	GEHRKENS, GREG & CAROL	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-24	0009771	SULLIVAN, JEFFREY PAUL & CINDI	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-25	0009772	KELLER-WOLFF, LAURA A & RANDY J WOLFF	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-26	0009773	FRANK, SEAN & CHANDRA J. HODGES	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-27	0009774	COVERDELL, NORMAN	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-28	0009775	COOLIDGE, CRAIG M	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-29	0009776	SHERWOOD, R MARK & KAY L	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-30	0009777	TUCKER, TOM P & KATHLEEN M	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-31	0009778	MC DONALD, KEVIN S & SARA L	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FHE-32	0009779	DICELLO, RAYMOND A & DARLA K	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-1	0505179	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-10	0505188	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-11	0505189	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-12	0505190	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-13	0505191	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-14	0505192	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-15	0505193	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-16	0505194	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-17	0505195	SLATER, GLENN A	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-18	0505196	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-19	0505197	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-2	0505180	EVINRUDE, LARRY D & ELLA	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-20	0505198	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-21	0505199	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-22	0505201	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-23	0505202	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-24	0505203	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-25	0505204	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-26	0505205	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-27	0505206	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-28	0505207	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-29	0505208	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-3	0505181	WHITE, DANIEL H & KAREN K	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-30	0505209	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-31	0505210	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-32	0505211	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-4	0505182	GALBRAITH, JOHN & SANDRA F,K, LORI F PILZ	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-5	0505183	CROFTS, DANA A & JESSICA A	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-6	0505184	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-7	0505185	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-8	0505186	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FX4-9	0505187	TML CONSTRUCTION LLC	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-33	0500340	WEIDAUER, RUTH E	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-34	0500341	WEIDAUER, RUTH E	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-35	0500342	CRAWFORD, SIDNEY RAY & LINDA KAY	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-36	0500343	GARDNER, BRIAN J & LA VONNE C	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-37	0500344	GARWOOD TRUST, LINDA L	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-38	0500345	USKOSKI, JAMES & DIANNA	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-39	0500346	WARNER, MARGARET MARY	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-40	0500347	ALLISTER, ROBERT M & SYLVINE A MARABOTTO	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-41	0500348	STEVENS REVOCABLE LIVING TRUST, LEROY C	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-FXE-42	0500349	CRESAP, DANNA	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-XXX-1	0492180	LEIGHTY, DIANA L and SAM	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-XXX-1A	0492045	LEIGHTY, DIANA	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-XXX-2	0007318	ZIMMERMAN LIVING TRUST, RAYMOND G	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-XXX-3	0007318	ZIMMERMAN LIVING TRUST, RAYMOND G	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-XXX-4	0003625	LEIGHTY, MARK & TERRY LEIGHTY	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-XXX-1	0638300	ODEGARD RANCH CORP	\$1,956.73	\$ 92.56	\$ 92.56
2820X03-XXX-2A	0975497	CAROLYN R. CRAWFORD & ALBERTA S ROBERTSON TRUST	\$1,956.73	\$ 92.56	\$ 92.56
2820X10-XXX-4AA	0309385	BABICH REVOCABLE TRUST AGREEMENT, SANDRA LYNN	\$1,956.73	\$ 92.56	\$ 92.56
			\$203,499.92		
Payments will be due on November 30, 2009, and May 31, 2010, and each November 30 and May 31 through November 30, 2028, and May 31, 2029. Payments will become delinquent, if not paid, on December 1 and June 1 of each year.					
* In each fiscal year, the then outstanding principal amount of assessment will be reamortized in equal semi-annual installments over the term of the assessments at an interest rate equal to the average interest on the outstanding bonds plus one half of one percent per annum.					

THURSDAY, OCTOBER 15, 2009  
(Continued)

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD NAME APPEAL/ LUGE LANE**

[10:48:43 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Dupont made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the chairman to sign. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **LUGE LANE**.

**Road generally running southeasterly off East Lakeshore Drive and located in the E½ NW¼ and in the SW¼ NE¼ of Section 4, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **2<sup>nd</sup> day of November, 2009, at 10:30 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **LUGE LANE**.

This notice shall be mailed to each landowner who has access off of the proposed **LUGE LANE**, who has an address assignment on the proposed **LUGE LANE** or who owns property along the proposed **LUGE LANE**.

Dated this 15<sup>th</sup> day of October, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Dale W. Lauman  
Dale W. Lauman, Chairman

ATTEST:

Paula Robinson, Clerk

By/s/Diana Kile

Diana Kile, Deputy

Publish on October 20 and October 27, 2009.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: TAX INCENTIVE REQUEST/ TOTAL LABEL USA**

[10:48:48 AM](#)

Members present:

Chairman Dale W. Lauman  
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Deputy County Attorney Tara Fugina, Clerk Kile

Commissioner Dupont made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the chairman to sign. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.



THURSDAY, OCTOBER 15, 2009  
(Continued)

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Sections 15-24-1402 and 76-15-103, M.C.A., that it will hold a public hearing to consider the application of Total Label USA, LLC, located at 500 Label Lane in Whitefish, Montana, seeking the application of tax reducing benefits for the additional \$129,000 worth of new equipment and improvements added to the current facility. If the application is granted, the increased value will be taxed at fifty percent of its taxable value in the first five years after approval; in each year thereafter, the percentage will be increased by 10 percent until the full taxable value is attained in the tenth year.

The public hearing will be held on the **10<sup>th</sup> day of November, 2009, at 10:00 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Montana, Courthouse, West Annex, 800 South Main Street, Kalispell, Montana. At the public hearing, the Board of Commissioners will give members of the public an opportunity to be heard regarding the application for tax reduction of the Total Label USA, LLC facility.

DATED this 15<sup>th</sup> day of October, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Dale W. Lauman  
Dale W. Lauman, Chairman

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

Publish on October 20 and November 3, 2009.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD ABANDONMENT #475 (CORNER OF LOT 1B, TAMARACK VIEW)**

10:50:14 AM

Members present:

Chairman Dale W. Lauman  
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Dupont made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the chairman to sign. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

NOTICE OF DISCONTINUANCE  
OF PUBLIC ROADWAY NO. 475

Notice is hereby given that the Board of Viewers have reported to the Board of Flathead County Commissioners on the discontinuance of that certain public roadway in Flathead County, Montana, described as follows:

A portion of the south half of Section 12, T31N, R23W, PM, M, Flathead County, Montana, described as follows:

Beginning at the N.E. corner of Lot 1B of the Amended Plat of Lot 1, TAMARACK VIEW a map of plat which is on file and of record at the Flathead County Clerk and Recorder's Office; Thence S03°53'25"E 42.83 feet; Thence S43°20'53"W 497.89 feet; Thence N60°42'11"W 63.61 feet; Thence N48°31'37"E 18.86 feet; Thence N43°20'53"E 411.86 feet; Thence N57° 40' 47"E 114.56 feet to the point of beginning containing 0.69 acres of land, more or less.

Notice is hereby given to the petitioners or landowners as disclosed by the last assessment roll of Flathead County, owning land abutting the roadway described above and being considered for abandonment.

The hearing on this petition for abandonment is set for **November 2, 2009, at 11:30 A.M.** in the County Commissioners' Office, West Annex, Courthouse, Kalispell, Montana.

DATED this 15<sup>th</sup> day of October 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Dale W. Lauman  
Dale W. Lauman, Chairman

PAULA ROBINSON,  
CLERK AND RECORDER

By/s/Diana Kile  
Diana Kile, Deputy

Publish on October 20 and October 27, 2009.

THURSDAY, OCTOBER 15, 2009  
(Continued)

**CONTINUATION OF FINAL PLAT: SUMMIT VIEW**

[10:42:55 AM](#)

Members present:

Chairman Dale W. Lauman

Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Planner Dianna Broadie, Deputy County Attorney Jonathan Smith, Deputy County Attorney Tara Fugina, Erica Wirtala, Clerk Kile

Broadie stated after further investigation into Summit View Subdivision she reported a portion of the water system for Summit View has been constructed and recommended approval with an SIA for road improvements, driveway approach, pump house and water system.

Commissioner Dupont made a **motion** to approve final plat of Summit View Subdivision. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

Commissioner Dupont made a **motion** to approve the SIA for \$53,500 and authorized the chairman to sign. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

**DOCUMENT FOR SIGNATURE: MOTOR VEHICLE RECYCLING & DISPOSAL PROGRAM/ SOLID WASTE DISTRICT**

[10:50:52 AM](#)

Members present:

Chairman Dale W. Lauman

Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Dupont made a **motion** to approve the motor vehicle recycling and disposal program contract. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

**2:00 p.m. Commissioner Brenneman: Health Board meeting @ Earl Bennett Bldg.**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 16, 2009.

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**FRIDAY, OCTOBER 16, 2009**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

**9:00 a.m. Subdivision Review Committee meeting @ Commissioners Meeting Room**

**9:30 a.m. Commissioner Lauman: Mental Health Council meeting in Polson**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 19, 2009.

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